

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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TRUSTEES OF THE NATIONAL ORGANIZATION OF
INDUSTRIAL TRADE UNIONS, et al.,

Plaintiffs,

-against-

ORDER
11-CV-1167 (ADS) (ARL)

MIDLAND MANUFACTURING CORP.,

Defendant.
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APPEARANCES:

Barnes Iaccarino & Shepherd, LLP

Attorneys for the Plaintiffs

3 Surrey Lane

Hempstead, NY 11550

By: Danielle Marlene Carney, Esq., Of Counsel

NO APPEARANCE:

Midland Manufacturing Corp.

SPATT, District Judge.

On March 3, 2011, the Plaintiffs commenced this action against the Defendant Midland Manufacturing Corporation (“the Defendant”) seeking damages and injunctive relief for the Defendant’s failure to comply with its statutory and contractual obligations arising out of a Collective Bargaining Agreement (“CBA”) entered into between the Plaintiffs and the Defendant. The Plaintiffs asserted claims against the Defendant for breach of the CBA in violation of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, et seq. and the Labor Management Relations Act of 1947, 29 U.S.C. § 141, et seq. On June 2, 2011, the Court entered a default judgment against the Defendant and referred this matter to United States

Magistrate Judge Arlene R. Lindsay for an inquest as to the appropriate injunctive relief and damages, including attorneys' fees and costs.

On December 20, 2011, Judge Lindsay issued a Report and Recommendation, recommending that the Court: (1) deny the Plaintiffs' claim for injunctive relief; (2) award the Plaintiffs \$18,112.50 for delinquent contributions and \$350 in costs for a total award of \$18,462.50; (3) deny the Plaintiff's request for an award of interest on unpaid contributions and for liquidated damages without prejudice to a renewal thereof upon submission of sufficient documentation and recalculation consistent with the Report and Recommendation. There were no objections filed to Judge Lindsay's December 20, 2011 Report and Recommendation. On March 2, 2012, the Court issued an order adopting Judge Lindsay's Report and Recommendation in its entirety and directing the Plaintiffs to submit documentation in support of their requests for (1) interest on unpaid contributions; (2) liquidated damages and (3) recalculations of those amounts consistent with Judge Lindsay's Report and Recommendation. On March 5, 2012, a Judgment was entered in favor of the Plaintiffs in the amount of \$18,462.50.

On March 19, 2012, in connection to the Court's March 2, 2012 Order, the Plaintiffs filed additional documentation in support of their request for interest on unpaid contributions and liquidated damages, as well as an application for attorneys' fees and costs. On April 9, 2012, the Court referred the matter to Judge Lindsay for a recommendation as to the Plaintiff's request for interest on unpaid contributions and liquidated damages, as well as the Plaintiffs' request for attorneys' fees and costs in connection with the Court's March 2, 2012 Order.

On February 21, 2012, Judge Lindsay issued a Report and Recommendation ("the Report"), recommending the Court grant the Plaintiffs an award of (1) interest on unpaid contributions in the amount of \$78.19; (2) liquidated damages in the amount of \$78.19; (3)

attorneys' fees in the amount of \$2,000; and (4) costs in the amount of \$50, for a total award of \$2,206.38. (Report, pg. 2.) To date, there have been no objections filed to the Report.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. §636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Lindsay's Report and finds it to be persuasive and without any legal or factual errors. There being no objection to Judge Lindsay's Report, it is hereby

ORDERED, that Judge Lindsay's Report and Recommendation is adopted in its entirety. The Court awards the Plaintiffs (1) interest on unpaid contributions in the amount of \$78.19; (2) liquidated damages in the amount of \$78.19; (3) attorneys' fees in the amount of \$2,000; and (4) costs in the amount of \$50, for a total award of \$2,206.38.

ORDERED, that the Clerk of the Court is directed to enter judgment in favor of the Plaintiffs as set forth above; and it is further

ORDERED, that the Clerk of the Court is directed to close the case.

SO ORDERED.

Dated: Central Islip, New York
March 12, 2013

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge